

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 73

HOUSE BILL 2462

AN ACT

AMENDING SECTION 11-1029, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 33; RELATING TO ANIMAL CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-1029, Arizona Revised Statutes, is amended to
3 read:

4 11-1029. Hearing on disposition of vicious animals; forfeiture;
5 exception

6 A. A peace officer, county enforcement agent or ~~peace officer who has~~
7 ~~responsibility for animal control in a municipality~~ ANIMAL CONTROL OFFICER
8 who has impounded an animal pursuant to section 11-1014 ~~or 13-2910~~, on a
9 showing of probable cause ~~that the animal has been cruelly mistreated or~~
10 ~~cruelly neglected or~~ that the animal is vicious or may be a danger to the
11 safety of any person or other animal, may request a disposition hearing
12 before a justice of the peace or city magistrate to determine whether the
13 animal ~~has suffered cruel mistreatment or cruel neglect as defined in section~~
14 ~~13-2910 or~~ is vicious. The hearing shall be set within fifteen business days
15 after the request has been filed.

16 B. The officer or agent who has requested a hearing under subsection A
17 of this section shall serve the order on the owner of the animal either by
18 personal service on the owner or by leaving a copy of the order with a person
19 of suitable discretion at the owner's residence or place of business. Proof
20 of service shall be filed with the court. ~~If the owner fails to appear at~~
21 ~~the hearing or if the justice of the peace or city magistrate determines that~~
22 ~~the animal is being cruelly mistreated or cruelly neglected or determines~~
23 THAT the animal is vicious, the justice of the peace or city magistrate may
24 order THAT the animal BE forfeited to the officer or agent ~~to be made~~
25 ~~available for adoption or~~ for transfer to a legally incorporated humane
26 society, COUNTY ANIMAL SHELTER or approved rescue agency or BE humanely
27 destroyed. The owner shall pay impound fees and any other costs for boarding
28 or necessary veterinary care. IF THE JUSTICE OF THE PEACE OR CITY MAGISTRATE
29 DETERMINES THAT THE ANIMAL IS NOT VICIOUS, THE JUSTICE OF THE PEACE OR CITY
30 MAGISTRATE MAY ORDER THE ANIMAL RETURNED TO THE OWNER, EXCEPT THAT IF THE
31 OWNER FAILS TO APPEAR AT THE HEARING, THE JUSTICE OF THE PEACE OR CITY
32 MAGISTRATE MAY ORDER THAT THE ANIMAL BE FORFEITED TO THE OFFICER OR AGENT FOR
33 TRANSFER TO A LEGALLY INCORPORATED HUMANE SOCIETY, COUNTY ANIMAL SHELTER OR
34 APPROVED RESCUE AGENCY AND BE MADE AVAILABLE FOR ADOPTION OR HUMANE
35 DESTRUCTION.

36 C. This section does not apply to the seizure of an equine pursuant to
37 section 3-1721 or to a city, town or county that adopts or has adopted an
38 ordinance or resolution providing for the forfeiture of an A VICIOUS animal
39 ~~that has suffered cruel mistreatment or cruel neglect~~ IF THE ORDINANCE OR
40 RESOLUTION IMPOSES REQUIREMENTS THAT ARE EQUAL TO OR MORE STRINGENT THAN THIS
41 SECTION.

1 Sec. 2. Title 13, chapter 38, Arizona Revised Statutes, is amended by
2 adding article 33, to read:

3 ARTICLE 33. AUTHORITY TO SEIZE ANIMALS

4 13-4281. Animal seizure; notification; bonding; hearing;
5 exception

6 A. A PEACE OFFICER, COUNTY ENFORCEMENT AGENT OR ANIMAL CONTROL OFFICER
7 WHO LAWFULLY SEIZES AN ANIMAL PURSUANT TO SECTION 13-2910 SHALL AFFIX A
8 NOTICE OF SEIZURE IN A CONSPICUOUS PLACE WHERE THE ANIMAL WAS FOUND OR
9 PERSONALLY DELIVER THE NOTICE OF SEIZURE TO THE OWNER OR KEEPER OF THE
10 ANIMAL, IF KNOWN OR ASCERTAINABLE AFTER REASONABLE INVESTIGATION. THE
11 OFFICER OR AGENT SHALL FILE PROOF OF SERVICE WITH THE COURT. IF IT IS
12 DETERMINED THAT THE SUFFERING OF THE ANIMAL DOES NOT REQUIRE HUMANE
13 DESTRUCTION, THE NOTICE SHALL INCLUDE THE FOLLOWING:

14 1. THE NAME, BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE PERSON
15 PROVIDING THE NOTICE.

16 2. A DESCRIPTION OF THE SEIZED ANIMAL.

17 3. THE AUTHORITY AND PURPOSE FOR THE SEIZURE, INCLUDING THE TIME,
18 PLACE AND CIRCUMSTANCE UNDER WHICH THE ANIMAL WAS SEIZED.

19 4. A STATEMENT THAT IN ORDER TO RECEIVE A POSTSEIZURE HEARING THE
20 OWNER OR PERSON AUTHORIZED TO KEEP THE ANIMAL, OR THE OWNER OR PERSON'S
21 AGENT, SHALL REQUEST THE HEARING BY SIGNING AND RETURNING TO THE COURT AN
22 ENCLOSED DECLARATION OF OWNERSHIP OR RIGHT TO KEEP THE ANIMAL WITHIN TEN
23 DAYS, INCLUDING WEEKENDS AND HOLIDAYS, AFTER THE DATE OF THE NOTICE.

24 5. A STATEMENT THAT THE OWNER IS RESPONSIBLE FOR THE COST OF CARE FOR
25 AN ANIMAL THAT WAS PROPERLY SEIZED AND THAT THE OWNER IS REQUIRED TO POST A
26 BOND IN THE AMOUNT OF TWENTY-FIVE DOLLARS PER ANIMAL WITH THE COURT TO DEFRAY
27 THE COST OF CARE.

28 6. A WARNING THAT IF THE OWNER FAILS TO POST A BOND WITHIN TEN DAYS
29 AFTER THE SEIZURE, THE ANIMAL WILL BE DEEMED ABANDONED AND BECOME THE
30 PROPERTY OF THE SEIZING AGENCY.

31 B. ON RECEIPT OF A DECLARATION OF OWNERSHIP AND POSTSEIZURE HEARING
32 REQUEST, THE JUSTICE OF THE PEACE OR CITY MAGISTRATE SHALL SET A HEARING DATE
33 WITHIN FIFTEEN BUSINESS DAYS. AT THE HEARING, THE SEIZING AGENCY SHALL HAVE
34 THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF EVIDENCE THAT THE ANIMAL WAS
35 SUBJECTED TO CRUEL MISTREATMENT, CRUEL NEGLECT OR ABANDONMENT IN VIOLATION OF
36 SECTION 13-2910 OR WILL SUFFER NEEDLESSLY IF HUMANE DESTRUCTION IS DELAYED.
37 ON THIS FINDING, THE COURT MAY TERMINATE THE OWNER'S RIGHTS IN THE ANIMAL AND
38 TRANSFER THE RIGHTS TO THE SEIZING AGENCY OR A DESIGNATED ANIMAL CARE AGENCY
39 AND SHALL FORFEIT THE BOND TO PAY THE EXPENSES INCURRED FOR THE HOUSING, CARE
40 AND TREATMENT OF THE ANIMAL. IF AT THE CONCLUSION OF THE HEARING THE ANIMAL
41 IS NOT FORFEITED UNDER THIS SECTION, THE COURT SHALL ORDER THE BOND
42 EXONERATED AND RETURNED TO THE OWNER.

43 C. IF THE OWNER OR PERSON AUTHORIZED TO KEEP THE ANIMAL FAILS TO POST
44 BOND AS PRESCRIBED BY SUBSECTION A, PARAGRAPH 5 OF THIS SECTION, FAILS TO
45 REQUEST A HEARING OR FAILS TO ATTEND A SCHEDULED HEARING, THE ANIMAL IS

1 DEEMED ABANDONED AND ALL RIGHTS OF THE OWNER IN THE ANIMAL ARE TRANSFERRED TO
2 THE SEIZING AGENCY.
3 D. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:
4 1. ACTIVITIES PERMITTED BY OR PURSUANT TO TITLE 3.
5 2. THE SEIZURE OF AN EQUINE PURSUANT TO SECTION 3-1721.
6 3. A CITY, TOWN OR COUNTY THAT ADOPTS OR HAS ADOPTED AN ORDINANCE OR
7 RESOLUTION PROVIDING FOR BONDING AND FORFEITURE OF AN ANIMAL THAT HAS
8 SUFFERED CRUEL MISTREATMENT OR CRUEL NEGLECT IF THE ORDINANCE OR RESOLUTION
9 IMPOSES REQUIREMENTS THAT ARE EQUAL OR MORE STRINGENT THAN THIS SECTION.

APPROVED BY THE GOVERNOR MARCH 21, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2012.

Passed the House February 23, 2012

Passed the Senate March 20, 2012

by the following vote: 55 Ayes,

by the following vote: 17 Ayes,

2 Nays, 2 Not Voting
1 Vacant

12 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of March, 20 12

at 3 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 21st day of

March

at 1:25 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 22nd day of March, 20 12

at 8:14 o'clock a M.

H.B. 2462

[Signature]
Secretary of State